

Introduced by Senator Kehoe

February 24, 2006

An act to amend Section 218 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1727, as introduced, Kehoe. Public Utilities: electrical corporations.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. An electrical corporation is defined as including every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.

This bill would additionally create an exception from the definition of an "electrical corporation," where electricity is generated on private real property and privately distributed across a highway, as defined, to an immediately adjacent private real property owned or otherwise controlled by the corporation or person, solely for its own use or the use of its tenants and not for sale or transmission to others. The bill would make conforming changes to specific exceptions for certain persons or corporations using cogeneration, landfill gas technology, and digester gas technology for the generation of electricity.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 218 of the Public Utilities Code is amended to read:

218. (a) “Electrical corporation” includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property, *or where electricity is generated on private real property and privately distributed across a highway to an immediately adjacent private real property owned or otherwise controlled by the corporation or person*, solely for its own use or the use of its tenants and not for sale or transmission to others. *For purposes of this section, “highway” means any “highway” as defined in Section 360 of the Vehicle Code.*

(b) “Electrical corporation” does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, ~~unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property~~ and one or more of the following applies:

(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.

(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.

(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.

1 (3) Sale or transmission to an electrical corporation or state or
2 local public agency, but not for sale or transmission to others,
3 unless the corporation or person is otherwise an electrical
4 corporation.

5 (c) “Electrical corporation” does not include a corporation or
6 person employing landfill gas technology for the generation of
7 electricity for any one or more of the following purposes:

8 (1) Its own use or the use of not more than two of its tenants
9 located on the real property on which the electricity is generated,
10 *or on immediately adjacent real property owned or otherwise*
11 *controlled by the corporation or person.*

12 (2) The use of or sale to not more than two other corporations
13 or persons solely for use on the real property on which the
14 electricity is generated, *or on immediately adjacent real property*
15 *owned or otherwise controlled by the corporation or person.*

16 (3) Sale or transmission to an electrical corporation or state or
17 local public agency.

18 (d) “Electrical corporation” does not include a corporation or
19 person employing digester gas technology for the generation of
20 electricity for any one or more of the following purposes:

21 (1) Its own use or the use of not more than two of its tenants
22 located on the real property on which the electricity is generated,
23 *or on immediately adjacent real property owned or otherwise*
24 *controlled by the corporation or person.*

25 (2) The use of or sale to not more than two other corporations
26 or persons solely for use on the real property on which the
27 electricity is generated, *or on immediately adjacent real property*
28 *owned or otherwise controlled by the corporation or person.*

29 (3) Sale or transmission to an electrical corporation or state or
30 local public agency, provided, however, that the sale or
31 transmission of the electricity service to a retail customer shall
32 only be provided through the transmission system of the existing
33 local publicly owned electric utility or electrical corporation of
34 that retail customer.

35 (e) The amendments made to this section at the 1987 portion
36 of the 1987–88 Regular Session of the Legislature do not apply
37 to any corporation or person employing cogeneration technology
38 or producing power from other than a conventional power source
39 for the generation of electricity that physically produced
40 electricity prior to January 1, 1989, and furnished that electricity

- 1 to immediately adjacent real property for use thereon prior to
- 2 January 1, 1989.

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